

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Gross	Team: Team # 3	CCRB Case #: 201102863	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/05/2011 9:45 PM	Location of Incident: § 87(2)(b)	Precinct: 77	18 Mo. SOL 9/5/2012	EO SOL 9/5/2012	
Date/Time CV Reported Sat, 03/05/2011 10:24 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 03/05/2011 10:24 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM John Yen	05068	949815	PBBN
2. SGT Vitaliy Zelikov	01346	936353	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Eric Campbell	00000	918740	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Vitaliy Zelikov	Abuse: Sergeant Vitaliy Zelikov authorized the stop of § 87(2)(b) in front of § 87(2)(b) in Brooklyn.	
B.POM John Yen	Abuse: Officer John Yen stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn.	
C.SGT Vitaliy Zelikov	Abuse: Sergeant Vitaliy Zelikov supervised the entry and search of § 87(2)(b) in Brooklyn.	
D.SGT Vitaliy Zelikov	Force: Sergeant Vitaliy Zelikov pointed his gun at individuals inside of § 87(2)(b) in Brooklyn.	
E.SGT Vitaliy Zelikov	Force: Sergeant Vitaliy Zelikov used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	
F.SGT Vitaliy Zelikov	Discourtesy: Sergeant Vitaliy Zelikov spoke obscenely to § 87(2)(b) and § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	
G.SGT Vitaliy Zelikov	Abuse: Sergeant Vitaliy Zelikov threatened to arrest § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	
H.SGT Vitaliy Zelikov	Abuse: Sergeant Vitaliy Zelikov refused to provide his name and shield number to § 87(2)(b) inside of § 87(2)(b) in Brooklyn.	

### Case Summary

On March 5, 2011, § 87(2)(b) filed this complaint with the CCRB electronically via the agency's website [Enc. 6A-D, 7A-B]. On March 5, 2011, at approximately 9:45pm, § 87(2)(b) encountered Sergeant Vitaliy Zelikov and Officer John Yen, both of Patrol Borough Brooklyn North, in front of § 87(2)(b) in Brooklyn. The following allegations resulted:

- **Allegation A – Sergeant Vitaliy Zelikov authorized the stop of § 87(2)(b) in front of § 87(2)(b) in Brooklyn.**
- **Allegation B- Officer John Yen stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn: § 87(2)(g)**  
§ 87(2)(g)  
§ 87(2)(g)
- **Allegation C- Sergeant Vitaliy Zelikov supervised the entry and search of § 87(2)(b) in Brooklyn: § 87(2)(g)**  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)
- **Allegation D – Sergeant Vitaliy Zelikov pointed his gun at individuals inside of § 87(2)(b) § 87(2)(b) in Brooklyn: § 87(2)(g)**  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)
- **Allegation E – Sergeant Vitaliy Zelikov used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**
- **Allegation F- Sergeant Vitaliy Zelikov spoke obscenely to § 87(2)(b) and § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**
- **Allegation G- Sergeant Vitaliy Zelikov threatened to arrest § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**
- **Allegation H – Sergeant Vitaliy Zelikov refused to provide his name and shield number to § 87(2)(b) inside of § 87(2)(b) § 87(2)(g)**  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

This case was initially assigned to Investigator Katelyn Williams. On December 6, 2011, this case was re-assigned to Investigator Max Gross due to Investigator Williams' resignation from the CCRB.

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b) [Enc. 8A-F]

- § 87(2)(b) stands 5'10'', weighs 145 pounds, and has black hair and brown eyes. He was § 87(2)(b) old at the time of the incident.

On March 8, 2011, § 87(2)(b) was contacted by phone and he provided a brief phone statement regarding the incident. On April 26, 2011, § 87(2)(b) was interviewed at the CCRB. His complaint is summarized below.

On March 5, 2011, § 87(2)(b) was inside his apartment, § 87(2)(b) in Brooklyn, with his girlfriend, § 87(2)(b). He was hanging out and playing video games with § 87(2)(b) and his friend § 87(2)(b) and several other acquaintances whose names he did not recall. There were also several young children in the apartment.

At approximately 9:45pm, § 87(2)(b) received a telephone call from his friend § 87(2)(b) who was in his vehicle outside of § 87(2)(b) which is located on a dead end street. § 87(2)(b) could not come in, but he told § 87(2)(b) to come outside and speak with him. § 87(2)(b) walked outside by himself and walked directly to § 87(2)(b)'s vehicle. He did not stop to talk to anyone. He was wearing a t-shirt and jeans. He was not wearing a jacket, and he did not have anything with him when he went to the vehicle. There were no other people in front of the building when he arrived outside. § 87(2)(b) stated that the area is well lit by street lights.

When § 87(2)(b) arrived outside, § 87(2)(b)'s vehicle was parked in a legal parking spot next to the curb with the engine still running. § 87(2)(b) got into the front passenger seat and closed the door. Once the door was closed, the interior light of the vehicle turned off. He remained inside of the vehicle with § 87(2)(b) for about six or seven minutes. While inside, the two were simply chatting. Other than initially shaking his hand, § 87(2)(b) did not make any additional physical contact with § 87(2)(b). § 87(2)(b) did not remove anything from § 87(2)(b)'s vehicle, nor did § 87(2)(b) give him anything while he was in the vehicle.

When § 87(2)(b) exited the vehicle, § 87(2)(b) pulled off and drove away. § 87(2)(b) noticed a marked NYPD van and about four or five uniformed officers by the parking lot to the left of his building, but they were "a good distance" from where he was (he could not approximate how far), and they were interacting with someone else. § 87(2)(b) had not noticed these officers there while he was in the car with § 87(2)(b) nor did he see when they pulled up. § 87(2)(b) walked across the lawn to the front door of his building.

When § 87(2)(b) reached the front door, he heard someone behind him say, "Yo, what are you doing? Come here." § 87(2)(b) turned around and saw a uniformed officer, identified as Officer John Yen of Patrol Borough Brooklyn North, standing more than 100 feet from him near the parking lot. Officer Yen was described as an Asian male, approximately 5'9" -5'10" tall, in his late 20s, with a slim build and his hair was spiked up into the "Mohawk" style.

§ 87(2)(b) was on probation at the time and did not want to have contact with the police, so he unlocked the door and walked into his building. When he got to his apartment (which is on the ground floor and is the third door into the building), he entered his apartment, but left the door open a crack.

As § 87(2)(b) was entering the apartment, he heard the sound of glass breaking behind him. Shortly thereafter, § 87(2)(b) observed a second uniformed officer, identified by the CCRB as Sergeant Vitaliy Zelikov, push open the door and enter his apartment with his gun pointed into the apartment. Sergeant Zelikov was described as a slim white male who was about 6'1" tall with "grayish" hair in his mid-30s.

Sergeant Zelikov stepped into the living room (which the apartment opens up to) and stated, "Don't fucking move." About six uniformed male officers then entered the apartment behind him. Sergeant Zelikov remained in the living room with everyone while two of the other officers. Officer Yen and PO3, walked back to § 87(2)(b) bedroom. The only details § 87(2)(b) could provide about PO3's physical appearance were that he was a uniformed male who appeared "Indian." The rest of the officers remained standing in the doorway to the apartment.

When Officer Yen and PO3 came out of the bedroom, a few officers (who § 87(2)(b) could not see) grabbed § 87(2)(b) and brought him into the hallway and placed him in handcuffs. § 87(2)(b) was subsequently transported to the 77<sup>th</sup> Precinct station house. He was

ultimately released from the station house with a summons for obstructing vehicular traffic, issued by Officer Yen.

**Victim:** § 87(2)(b) [Enc. 9A-H]

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. She is a black female who stands 5'4" and weighs 165 pounds. She has red hair and blue eyes.*

On April 26, 2011, § 87(2)(b) was interviewed at the CCRB. § 87(2)(g)

On March 5, 2011, § 87(2)(b) was hanging out in her apartment (§ 87(2)(b)) in Brooklyn, with § 87(2)(b) and § 87(2)(b) § 87(2)(b)'s friend, § 87(2)(b) was also present inside of the apartment at the time.

At approximately 9:45pm, § 87(2)(b) told § 87(2)(b) that he was going outside to meet up with a friend. Approximately twenty minutes after § 87(2)(b) left, § 87(2)(b) received a call from her mother, § 87(2)(b) who lives directly across the street from § 87(2)(b), who informed her that the police were chasing § 87(2)(b). As she was speaking with her mother, § 87(2)(b) came running into the apartment. § 87(2)(b) asked him what was going on, but he did not know. § 87(2)(b) did not recall if § 87(2)(b) completely closed the apartment door behind him when he re-entered the apartment.

The door was pushed open, and the first officer to enter the apartment was Sergeant Zelikov, followed by Officer Yen. The officers walked directly into the living room where everyone was hanging out. Sergeant Zelikov had his gun pointed randomly into the apartment. When Sergeant Zelikov noticed that there were children present, he pointed his gun towards the floor. Sergeant Zelikov then looked at the males and asked which one of them just ran into the apartment. § 87(2)(b) admitted that he was the one who just ran into the apartment. Sergeant Zelikov instructed § 87(2)(b) to go out into the hallway.

After § 87(2)(b) exited the apartment, Sergeant Zelikov walked down the hallway to the back of the apartment and entered § 87(2)(b)'s bedroom, while Officer Yen remained in the living room. § 87(2)(b) and § 87(2)(b) walked down the hallway and stood outside of the bedroom watching Sergeant Zelikov and asking him what he was doing.

§ 87(2)(b) observed Sergeant Zelikov lift up her mattress and look underneath it, before walking back into the living room. By the threshold of the bedroom door, § 87(2)(b) was standing about three feet away from Sergeant Zelikov and she was holding her § 87(2)(b)-year-old child in her left arm. She then waved one the fingers on her right hand in the air (not close to Sergeant Zelikov) and told him that he was not supposed to be searching the apartment without a search warrant. Sergeant Zelikov responded by slapping her hand away, causing her hand to hit the wall. Sergeant Zelikov then called § 87(2)(b) a "cunt bitch," and he told her, "If you don't shut the fuck up I'm going to arrest you in front of your son."

§ 87(2)(b) walked back to the front of the apartment, and she saw that § 87(2)(b) was on the floor in the hallway outside of the apartment. § 87(2)(b) asked Sergeant Zelikov for his name, and he responded with something to the effect of, "In your life, bitch." § 87(2)(b) also told the officers in the hallway, "I want everybody's shields and names," but none of them provided this information. There were two males in uniform in the hallway, along with three male officers in plainclothes who had also responded to the location. § 87(2)(b) could only provide minimal descriptions of the plainclothes officers, stating that two were black males and one officer was a white male. The officers simply walked down the hallway without responding before leaving the location with § 87(2)(b) in custody.

**Victim:** § 87(2)(b) [Enc. 10]

On May 5, 2011, § 87(2)(b) provided a brief statement via telephone regarding the incident. § 87(2)(b) acknowledged being inside of § 87(2)(b)'s apartment (§ 87(2)(b)) during the incident. § 87(2)(b) went outside for about five minutes, before he came running back into the apartment. The civilians inside of the apartment closed the door behind him because someone was chasing him. However, when they realized it was the police, they opened the door. Two uniformed male officers, identified as Sergeant Zelikov and Officer Yen, entered the apartment. Sergeant Zelikov had his gun pointed into the apartment as he crossed the threshold into the apartment.

Sergeant Zelikov went back and began searching § 87(2)(b)'s bedroom. When § 87(2)(b) told him he wasn't supposed to be doing that, he called § 87(2)(b) a "bitch" and a "cunt," and he threatened to arrest her in front of her child. § 87(2)(b) then noticed that § 87(2)(b) had been in the front hallway in front of the apartment speaking with police officers. She went outside and joined her. While outside, Sergeant Zelikov approached § 87(2)(b) and told her to get her "fucking" hand out of his face, and he smacked her hand before leaving the scene.

At the conclusion of her phone statement, § 87(2)(b) agreed to appear at the CCRB in order to provide a verified statement. However, § 87(2)(b) subsequently scheduled and missed two appointments without calling to cancel or reschedule, and never appeared at the CCRB to provide a more detailed statement regarding the incident. To date, § 87(2)(b) has not contacted the CCRB with regard to the incident.

#### **Attempts to Contact Civilians**

On June 27, 2011, § 87(2)(b) was contacted by phone [Enc. 12]. During a brief phone statement, she provided a vague description of the event which was consistent with the account provided by § 87(2)(b) and § 87(2)(b). § 87(2)(b) declined to provide a formal statement in regards to the incident, citing work obligations.

§ 87(2)(b) did not initially provide contact information for § 87(2)(b). On May 31, 2011, § 87(2)(b) provided a cell phone number for § 87(2)(b). However, the number § 87(2)(b) provided ultimately was determined to no longer belong to § 87(2)(b) having been re-assigned to a different wireless customer. Absent any additional information, including an address and date of birth, searches via the New York State Department of Motor Vehicles and LexisNexis databases were unable to locate additional contact information for § 87(2)(b).

#### **NYPD Statements:**

##### **Subject Officer: SERGEANT VITALIY ZELIKOV**

- *Sergeant Zelikov is a § 87(2)(b)-old white male with brown hair and green eyes. He is 6'0" tall and he weighs 190 pounds.*
- *Sergeant Zelikov worked from 2:50pm until 11:47pm on March 5, 2011. He was dressed in uniform and was working as the Operation Impact sergeant. His operator was Officer John Yen, and they were using unmarked RMP #1417.*

### **Memo Book [Enc. 19]**

Sergeant Zelikov noted in his memo book that at 9:40pm he requested that an additional RMP respond to § 87(2)(b) in Brooklyn. At 9:46pm, one individual was under arrest from the location. At 10:00pm, Sergeant Zelikov prepared an accident report for a broken window at § 87(2)(b).

### **CCRB Statement [Enc. 20A-C]**

On August 11, 2011, Sergeant Zelikov was interviewed at the CCRB. At approximately 9:40pm on March 5, 2011, Sergeant Zelikov and Officer Yen were patrolling the confines of the 77<sup>th</sup> Precinct. While on a cul-de-sac on § 87(2)(b), Sergeant Zelikov was forced to stop the RMP because there was a vehicle in the middle of the street blocking the roadway. The vehicle's engine was on, but the interior lights and headlights were off, and there appeared to be two occupants in the front seats. Sergeant Zelikov could not get around the vehicle to exit the cul-de-sac, so he flashed the RMP's lights to signal for the vehicle to move. When he did so, the male who had been in the passenger seat (identified as § 87(2)(b)) exited the vehicle.

After emerging from the vehicle, § 87(2)(b) walked towards the RMP. As he did so, he was grabbing the front of his waistband with one hand (Sergeant Zelikov did not recall which) in a way that led Sergeant Zelikov to believe he was holding the handle of a firearm. However, from where he was in the RMP, Sergeant Zelikov could not see the shape of the object that § 87(2)(b) was grabbing. Sergeant Zelikov did not recall what kind of pants § 87(2)(b) was wearing that evening.

Sergeant Zelikov and Officer Yen exited the RMP. When § 87(2)(b) saw that Sergeant Zelikov and Officer Yen were uniformed officers, he ran away towards the nearest building (§ 87(2)(b)). The vehicle he had been in sped away from the location. Sergeant Zelikov did not recall where § 87(2)(b) hands were when he was running away. Officer Yen chased after § 87(2)(b) and Sergeant Zelikov followed behind him. While running, the officers were ordering § 87(2)(b) to stop, but he did not comply. There was no discussion between Officer Yen and Sergeant Zelikov prior to them starting to chase § 87(2)(b). At this point, Sergeant Zelikov believed § 87(2)(b) was in possession of a firearm.

§ 87(2)(b) ran into § 87(2)(b) and Officer Yen followed behind. By the time Sergeant Zelikov reached the building, the door had already closed behind Officer Yen and locked. Sergeant Zelikov rang the bell, but no one opened the door for him. He called over the radio for an additional unit to respond to the location. He then used his asp to break one of the glass panels in the door and reached inside to open the door. By the time he gained entry, about a minute had passed since Officer Yen had entered the building.

When he entered the lobby, Sergeant Zelikov saw Officer Yen trying to push open the door to one of the ground floor apartments. It appeared that someone was trying to push the door closed from the inside to prevent him from doing so. Sergeant Zelikov assisted Officer Yen in pushing the door open. Sergeant Zelikov did not have his firearm drawn at this point, nor did he ever draw it at any point during this incident. However, he specified that since he believed that § 87(2)(b) had a firearm, he would have been permitted to pursue § 87(2)(b) and enter the apartment with his firearm drawn.

When they were able to force the door open, Sergeant Zelikov observed multiple individuals, including § 87(2)(b) standing inside the apartment in what appeared to be a living room. Sergeant Zelikov entered the living room area and informed § 87(2)(b) that he was under arrest. Sergeant Zelikov did not state, "Don't fucking move." § 87(2)(b) did not resist being placed under arrest. Officer Yen remained in the living room while Sergeant Zelikov visually

inspected the “lungable areas” of the apartment where § 87(2)(b) might have thrown the firearm. This included the immediate vicinity of where § 87(2)(b) was standing; inside of the living room, and in the adjacent rooms that had their doors open. Sergeant Zelikov simply conducted a visual search of these areas. He did not move anything around, open any drawers or closets, or lift any mattresses. No firearm was located during the search.

The other individuals in the apartment were yelling while Sergeant Zelikov was walking around. It was a small apartment, so the individuals were close to him, but he never felt threatened by any of them. None of the individuals stuck their hand in Sergeant Zelikov’s face. Sergeant Zelikov did not make physical contact with any of the individuals in the apartment aside from § 87(2)(b). Sergeant Zelikov did not tell anyone in the apartment, “If you don’t shut the fuck up I’m going to arrest you in front of your son.” Sergeant Zelikov did not call anyone in the apartment a “bitch” or a “cunt bitch” or use the word “fuck” in any context while speaking with any civilian.

While they were in the apartment, several additional units arrived at the scene based on his call. Sergeant Zelikov did not recall who these officers were and he did not believe that any of the responding officers ever entered the apartment. None of the females who were inside the apartment asked Sergeant Zelikov for his name and shield number. Sergeant Zelikov was in the apartment for less than ten minutes. He and Officer Yen then transported § 87(2)(b) to the 77<sup>th</sup> Precinct stationhouse. At the time of his interview, Sergeant Zelikov did not recall what § 87(2)(b) was charged with.

**Subject Officer: OFFICER JOHN YEN**

- *Officer Yen is a § 87(2)(b)-old Asian male with black hair and brown eyes. He is 5’10” tall and he weighs 165 pounds.*
- *Officer Yen worked from 3:00pm until 11:35pm on March 5, 2011. He was dressed in uniform and was assigned to be the operator for Sergeant Zelikov. Sgt. Zelikov was the impact sergeant. They were using RMP #1417, which is an unmarked black or blue Impala.*

**Memo Book [Enc. 17A-C]**

At 9:46pm, Officer Yen noted in his memo book that he stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn. § 87(2)(b) was arrested but was released with a criminal summons. Officer Yen prepared a Stop, Question and Frisk report for § 87(2)(b) for criminal possession of a weapon.

**Stop, Question and Frisk Report [Enc. 15A-B]**

Officer Yen completed a Stop, Question and Frisk report for § 87(2)(b) under the suspicion of criminal possession of a weapon. The report details that § 87(2)(b) was stopped and frisked after he was observed in front of § 87(2)(b) for approximately two minutes.

For the circumstances which led to the stop, he listed, “actions indicative of engaging in a drug transaction” and “furtive movements.” He listed additional factors as “area has high incidence of reported offense”, “time of day/week corresponding to criminal activity”, “suspect is associating with persons known for their criminal activity”, “sights and sounds of criminal activity”, “evasive, false or inconsistent responses to officers questions”, “changing directions at the sight of the officers”, and “ongoing investigation.”

For his frisk basis Officer Yen selected, “inappropriate attire – possibly concealing a weapon”, “refusal to comply with officer’s directives”, “knowledge of suspects prior criminal behavior”, “furtive movement”, and “other –adjusting waistband.”

**C-Summons § 87(2)(b) [Enc. 16]**

Officer Yen issued § 87(2)(b) a summons for § 87(2)(b), § 87(2)(a) 160.50

### CCRB Statement [Enc. 18A-C]

On July 22, 2011, Officer Yen was interviewed at the CCRB. On March 5, 2011, at approximately 9:45pm, Officer Yen and Sergeant Zelikov were driving in a cul-de-sac in front of § 87(2)(b) in Brooklyn. Sergeant Zelikov was driving and Officer Yen was in the front passenger seat. They pulled up behind a vehicle which was stopped on the street. The vehicle was near the left curb (the driver's side was towards the curb), but there was a male, later identified as § 87(2)(b) standing outside of the passenger side window speaking to the driver. Officer Yen and Sergeant Zelikov were unable to pull around the vehicle because of where § 87(2)(b) was standing in the street, and there was no other way out of the cul-de-sac.

Sergeant Zelikov sounded the RMP's horn to indicate that § 87(2)(b) should move. § 87(2)(b) looked back towards the RMP, but he then turned back and continued talking to the driver in the vehicle. The officers thought § 87(2)(b) might have been finishing up something important, so they waited approximately one minute. While Officer Yen was waiting for him to move, he noticed that § 87(2)(b) was "shuffling around a lot."

When § 87(2)(b) still did not move after a minute, Sergeant Zelikov sounded the horn at him again. § 87(2)(b) still did not move, so Officer Yen exited the RMP and asked § 87(2)(b) to get out of the street. Officer Yen was only about five to ten feet away from § 87(2)(b) when he exited the vehicle, and the area is well lit with streetlights. When Officer Yen stepped out of the vehicle, § 87(2)(b) quickly reached towards the front of his waistband. Officer Yen saw that there was a heavy looking bulge under § 87(2)(b) waistband. § 87(2)(b) continually adjusted the bulge.

Based on his odd behavior, Officer Yen asked § 87(2)(b) if he could "talk to him for a second." § 87(2)(b) immediately took off running, holding the bulge in his waistband as he ran. Officer Yen chased § 87(2)(b) to the front of § 87(2)(b). When § 87(2)(b) went to ring the buzzer to be let into the building, the black handle of a pistol slipped out of his waistband into Officer Yen's sight. § 87(2)(b) caught the firearm and tucked it back into his sweatpants, before opening the door and darting into the building.

Officer Yen followed § 87(2)(b) into the building. § 87(2)(b) ran into an apartment on the ground floor. Officer Yen was right behind him and managed to get halfway into the doorframe before someone tried to slam the door shut on him. Officer Yen called for help over his radio and started trying to push the door open (the door never completely closed). Someone was on the other side trying to push the door shut. Sergeant Zelikov then appeared and assisted him in pushing the door open.

At some point during the course of this incident, Officer Yen was able to communicate to Sergeant Zelikov that he chased § 87(2)(b) into the building because he saw a firearm in his waistband. However, he was unsure how and when he disseminated this information to Sergeant Zelikov.

When they got the door open, Officer Yen and Sergeant Zelikov stood side by side in the doorway. Officer Yen did not recall if Sergeant Zelikov ever removed his gun from its holster. He did not recall seeing Sergeant Zelikov point his firearm into the apartment. The door had opened up into a living room area, and § 87(2)(b) came out from a rear room into the living room wearing only shorts and no shirt. He told the officers that he did not have anything on him. When § 87(2)(b) ran into the apartment, he had been wearing a long-sleeved shirt and jeans. There were also multiple women and children in the living room, approximately ten people total. Several of the civilians were yelling at the officers.



Officer Yen walked into the apartment, grabbed § 87(2)(b) wrist and took him out of the apartment. § 87(2)(b) did not resist being taken out of the apartment. Officer Yen glanced around the living room for the firearm, but he did not see it. He was not sure if he was allowed to search for the firearm, so he did not do so. He did not believe he entered any of the other rooms in the apartment aside from the living room.

Officer Yen believed that Sergeant Zelikov entered the apartment with him. However, after the door opened, Officer Yen lost sight of Sergeant Zelikov because his focus was on § 87(2)(b). He did not know if Sergeant Zelikov conducted any kind of investigation into the possible presence of a firearm in the apartment. Officer Yen did not recall if Sergeant Zelikov entered any of the other rooms in the apartment aside from the living room. Officer Yen did not recall hearing Sergeant Zelikov use discourteous language while speaking with any civilians inside of the apartment. Officer Yen was focused on § 87(2)(b) and he did not know if Sergeant Zelikov interacted with any of the women or children while inside of the apartment. He did not see Sergeant Zelikov make any kind of direct physical contact with any of the women inside the apartment. He did not hear Sergeant Zelikov threaten to arrest any additional civilians who were present inside of the apartment.

Before the officers left with § 87(2)(b) a female came out into the hallway with a shirt for § 87(2)(b). Officer Yen did not recall what her demeanor was. Officer Yen did not recall if this female asked any of the officers in the hallway for their names or shield numbers.

**Witness Officer: SERGEANT ERIC CAMPBELL , 106<sup>th</sup> PRECINCT**

- *Sergeant Campbell is a § 87(2)(b)-old black male with no hair and brown eyes. He is 5'11" tall and he weighs 280 pounds.*
- *Sergeant Campbell worked from 5:15pm on March 5, 2011 until 2:12am on March 6, 2011. He was dressed in plainclothes and was working as the Anti-Crime supervisor. His operator was Officer Sanders, and he was assigned to an unmarked RMP. Since the incident date, Sergeant Campbell was promoted to the rank of Lieutenant and assigned to the 106<sup>th</sup> Precinct. However, his narrative will reflect his rank at the time of the incident, Sergeant.*

**Memo Book [Enc. 13A-B]**

At 9:35pm on March 5, 2011, Sergeant Campbell noted that he responded to a call for assistance at § 87(2)(b) in Brooklyn.

**CCRB Statement [Enc. 14A-B]**

At approximately 9:35pm on March 5, 2011, Sergeant Campbell responded to a call for assistance from Sergeant Zelikov at § 87(2)(b). When Sergeant Campbell and Officer Sanders arrived at the location, there were multiple officers, including Sergeant Zelikov and Officer Yen, in the hallway of the first floor of the building, near § 87(2)(b). There were approximately two additional units present, but Sergeant Campbell did not recall who they were. Sergeant Campbell did not observe any officers inside § 87(2)(b) nor did he observe any officers with their guns out of their holsters.

The officers had one male in handcuffs, and there was also a light-skinned female civilian in the hallway. The female was upset and was yelling at Sergeant Zelikov and asking why the officers chased the male in handcuffs. Sergeant Campbell never spoke with the light-skinned female. Sergeant Campbell observed a photograph of § 87(2)(b) but stated that he could not identify her as the individual in the hallway. Sergeant Campbell did not hear § 87(2)(b) ask any officers for their names and shield numbers in his presence. He had no verbal interaction with the female in the hallway. He did not hear any officer call her or any other civilian a "bitch" or a "cunt bitch," nor did he hear any officer threaten to arrest any civilian in the hallway. After



- § 87(2)(b) has filed one previous CCRB complaint [Enc. 4]. In case 200807458 she alleged force, abuse of authority, and discourtesy. The allegations in that case were closed as complainant uncooperative.

### **Subject Officer CCRB History**

- Sergeant Zelikov has been a member of the service for 7 years and there are no substantiated CCRB allegations against him [Enc. 2A-B].
- Officer Yen has been a member of the service for 1 year and there are no substantiated allegations against him [Enc. 1].

### **Conclusion**

### **Identification of Subject Officer**

- Both Officer Yen and Sergeant Zelikov acknowledged chasing § 87(2)(b) into his building and then into his apartment during the incident.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pleaded**

No property damage allegation will be pleaded against Sergeant Zelikov, as it will be subsumed into the entry allegation pleaded against him.

§ 87(2)(b) only specified that she directly requested name and badge information from Sergeant Zelikov. § 87(2)(g)

**Allegation A – Sergeant Vitaliy Zelikov authorized the stop of § 87(2)(b) in front of § 87(2)(b) in Brooklyn.**

**Allegation B- Officer John Yen stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn:**

The officers chased § 87(2)(b) into § 87(2)(b) after Officer Yen observed a heavy bulge and Sergeant Zelikov observed hand motions which led them to believe he could have potentially been in possession of a firearm.

The presence of a heavy appearing bulge, combined with repeated motions to adjust or conceal the bulge, is sufficient to provide founded suspicion of criminality, People v. Gerard 2012 NY Slip Op 2957 (2012) [Enc. XIV-XV]. Police pursuit of an individual constitutes a stop requiring reasonable suspicion, People v. Holmes 81 N.Y.2d 1056 (1993) [Enc. XVI-XIX]. A suspect's flight, combined with specific circumstances indicating that a suspect may be engaged in criminal activity, can provide an officer with reasonable suspicion to pursue them, People v. Holmes, at 1058 [Enc. XVI-XIX].

§ 87(2)(g)

Officer Yen only described the bulge as appearing heavy, which caused § 87(2)(b) to adjust his waistband and reach quickly towards the bulge before walking towards the entrance of § 87(2)(b) Sergeant Zelikov, who indicated that § 87(2)(b) ran immediately after observing the officers, saw § 87(2)(b) grabbing with one hand at his waistband in a manner which caused him to believe that he could potentially be holding the handle of a firearm, although he was unsure of the shape of the object § 87(2)(b) was clutching.

§ 87(2)(g)

**Allegation C- Sergeant Vitaliy Zelikov supervised the entry and search of § 87(2)(b) in Brooklyn:**

Sergeant Zelikov supervised the entry of § 87(2)(b) after Officer Yen chased § 87(2)(b) inside. Sergeant Zelikov, the first officer into the apartment, conducted a visual inspection of the living room (where § 87(2)(b) was apprehended) and rooms adjacent to the living room which had their door open. Sergeant Zelikov justified the warrantless entry into the apartment based on “hot pursuit.”

For an officer to make a warrantless entry into an apartment based on hot pursuit, they must first have probable cause to arrest an individual in a public space before the person retreated to a private space, NYPD v. Shulman 79834/04 (2004) [Enc. II-XIII].

Sergeant Zelikov stated that he entered § 87(2)(b) because he believed § 87(2)(b) was in possession of a firearm. § 87(2)(g)

Officer Yen testified that as § 87(2)(b) began ringing buzzers, he observed the handle of a black pistol slip out of his waistband into sight. § 87(2)(g)

Officer Yen stated that at some point prior to the entry, he told his observation to Sergeant Zelikov, although he did not recall when or how. Sergeant Zelikov did not indicate that he received any information from Officer Yen prior to making entry, specifying that based on his observations he already believed § 87(2)(b) to be in possession of a firearm. § 87(2)(g)

**Allegation D – Sergeant Vitaliy Zelikov pointed his gun at individuals inside of § 87(2)(b) in Brooklyn:**

Sergeant Zelikov denied drawing his service weapon during the incident, but specified that he would have been justified in doing so since he believed § 87(2)(b) to be in possession of a firearm. Officer Yen did not recall seeing Sergeant Zelikov’s weapon unholstered.

The Patrol Guide provides broad latitude for officers to draw their service weapons, so long as they can articulate a fear for their safety, NYPD v. Gliner 955/00 (2000) [Enc. XX-XXXX].

§ 87(2)(g)

**Allegation E – Sergeant Vitaliy Zelikov used physical force against § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**

**Allegation F- Sergeant Vitaliy Zelikov spoke obscenely to § 87(2)(b) and § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**

**Allegation G- Sergeant Vitaliy Zelikov threatened to arrest § 87(2)(b) inside of § 87(2)(b) in Brooklyn.**

**Allegation H – Sergeant Vitaliy Zelikov refused to provide his name and shield number to § 87(2)(b) inside of § 87(2)(b) in Brooklyn:**

§ 87(2)(b) alleged that when she verbally confronted Sergeant Zelikov about entering the apartment, he cursed at her and slapped her hand out the air before threatening to arrest her in front of her son. § 87(2)(b) alleged that when she asked Sergeant Zelikov for his name and shield number, he did not verbally disclose this information instead replying, “In your life bitch.”

Sergeant Zelikov acknowledged that some civilians inside of the apartment were yelling at him during the incident, although he denied coming into physical contact with, cursing at, or threatening any civilian with arrest. Sergeant Zelikov also denied overhearing any civilian request his name or badge number during the incident. Although § 87(2)(b) ultimately did not provide a verified statement in regards to the incident, § 87(2)(b) corroborated the allegations made. § 87(2)(b) also provided a photograph which she said was § 87(2)(b)'s hand depicted with a slightly swollen middle knuckle, but since § 87(2)(b) was uncooperative the investigation ultimately could not confirm the date or authenticity of the photograph.

§ 87(2)(g)  
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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
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